

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

Crl.MC.No. 1806 of 2007()

SC.1/2007 of SPL. COURT (NDPS ACT CASES), THODUPUZHA

.....

PETITIONER: ACCUSED

-----

MOIDEEN, NADUVILEKIZHAKKEL, ADIMALI,  
IDUKKI.

BY ADV. SRI.V.K.SUNIL

RESPONDENTS: COMPLAINANT

-----

STATE OF KERALA, REPRESENTED BY THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 15/06/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R. BASANT, J.**

-----  
**CRL.M.C.NO. 1806 OF 2007**  
-----

Dated this the 15<sup>th</sup> day of June, 2007

**ORDER**

The petitioner faces indictment in a prosecution under the N.D.P.S. Act. Final report has been filed. Cognizance has been taken. The petitioner had appeared before the learned Special Judge. He was enlarged on bail. When the matter was posted for hearing on the question of framing charge, the petitioner was not present personally. His counsel was present. The counsel made an application to excuse the absence of the petitioner. The learned Special Judge heartlessly, it is submitted, dismissed the application without taking note of the fact that the personal presence of the petitioner was not necessary or essential for hearing on the question of charge. Aggrieved by the issue of a non-bailable warrant of arrest against him by the learned Special Judge, the petitioner has come before this Court.

2. A report of the learned Special Judge was called for. The report confirms that the case was posted for hearing on

the question of charge and framing charge, if necessary.

3. I am not, in the least, impressed with the explanation offered by the learned Judge. The petitioner is entitled for a hearing on the question of charge. If the learned counsel does not advance any argument on the question of framing charge, the matter could easily have been decided and posted to the next day for framing charge. At any rate, ritualistic insistence on the personal appearance of the accused which is adding to the crowd in the criminal courts has got to be avoided. On a day when the case was posted for hearing on the question of framing charge, it was certainly not necessary for the learned Judge to insist on the personal presence of the accused. Be that as it may, the learned Judge has informed this Court that the petitioner has appeared before the learned Judge and has already enlarged on bail. No further directions do appear to be necessary in these circumstances.

4. In the result, this Crl.M.C. is dismissed as no further relief needs or deserves to be granted in favour of the petitioner.

**Sd/-**

**(R. BASANT, JUDGE)**

**Nan/**

**//true copy//**

**P.S. To Judge**